

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

UNITED STATES OF AMERICA)
)
)
V.) **CASE NO:3:05-CR-121-LSC**
)
MALIK ELAWAD)

UNOPPOSED MOTION TO CONTINUE SENTENCING

COMES NOW the Defendant, Malik Elawad, by and through undersigned counsel, and moves the Court for a continuance of the sentencing which is currently set for Wednesday, May 24, 2006 at 9:00 a.m., due to the unavailability of necessary witnesses.

1. On April 17, 2006 and April 18, 2006, Mr. Elawad underwent mental health examinations and interviews administered by Dr. Marianne Rosenzweig (“Dr. Rosenzweig”). These exams appear to provide new information concerning Mr. Elawad’s mental and emotional state at the approximate time of the charged offense.

2. To fully understand the implications of the information acquired, Dr. Rosenzweig is completing additional interviews with Mr. Elawad’s family members, former teachers, and friends. Dr. Rosenzweig intends to elicit testimony from Dr. Rosenzweig on the day of sentencing.

3. However, the completion of Dr. Rosenzweig’s work on this matter has been delayed due to obligations she has in other legal matters. Dr. Rosenzweig is currently out of the state and unable to work on her report for this case. Further, she will be in trial in Mobile, Alabama on Wednesday, May 24, 2006. Dr. Rosenzweig will need to be on site in

Mobile throughout that trial, and thus she will be unable to travel to Montgomery at any time on May 24.

4. Defense counsel has also retained an expert on the subject of Sudanese culture, which directly relates to Mr. Elawad's characteristics, background, and his mental and emotional state. Defense counsel intends to employ the services of this expert and possibly elicit testimony from him on the day of sentencing. This expert traveled out of the United States on or about April 22 and will only be in Alabama on the following dates: June 8 - July 20 and from late August onward..

5. Mr. Elawad is in custody and anticipates a sentence of incarceration in this matter. There is presently one item in dispute on the draft presentence report, although the parties are trying to resolve that dispute. If the dispute is not resolved, the plea agreement will be endangered. If the dispute is resolved, the Court's options at sentencing, if the plea agreement is accepted, will be to impose a total sentence of 161 months.¹ Defense counsel respectfully wish to present the testimony of Dr. Rosenzweig and the Sudanese expert to support acceptance of the plea agreement and imposition of a total sentence of 161 months

WHEREFORE, the defendant respectfully requests this Court to grant this Motion and continue the sentencing until September 2006.

Respectfully submitted,

s/Christine A. Freeman

¹Mr. Elawad has pled guilty to bank robbery (count 1) and to violation of 18 U.S.C. §924 (c) (count 2). He is facing a statutory mandatory consecutive sentence of ten years on Count 2.

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CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following: Assistant United States Attorney, One Court Square, Suite 201, Montgomery, Alabama 36104.

Respectfully submitted,

s/Christine A. Freeman
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